

REMARKS

After entry of this amendment, claims 1-16, 27, and 29-87 will be pending for the Examiner's review and consideration. Claims 2, 4, 5, 11, 12, 14, 27, 30, 42 and 45 have been amended. Claim 28 has been canceled. Claims 17-26 were previously canceled as subjected to a non-elected species. Claims 50-88 have been added. No new matter has been added. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

This amendment responds to the office action mailed September 30, 2003. In the office action the Examiner:

- rejected claims 1-10, 15, 27-36, 39-41, 43, and 45-49 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,379,363 to Herrington ("Herrington");
- rejected claims 11-13, 16, 37-38, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Herrington; and
- objected to claims 14 and 42 as being dependent upon a rejected base claim, but otherwise allowable if rewritten in independent form.

Independent Claim 1

The Applicant would first like to thank the Examiner for the allowance of the subject matter disclosed in claims 14 and 42 if rewritten in independent form.

Independent claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Herrington. Independent claim 1 recites, *inter alia*, a cranial flap clamp comprising a first clamping member, an extension member extending from the first clamping member, and a second clamping member. The clamp further comprises an integrally formed stop on the extension member provided by mechanical deformation of the extension member. There is no disclosure, teaching, or suggestion in Herrington of a stop on the extension member provided by mechanical deformation of the extension member.

Rather, Herrington discloses a disk 12, a cap 14 and an elongated stem 16 interconnecting the disk 12 and the cap 14. The stem 16 comprises a distal portion extending from the distal end 30 of the stem 16 to the cap 14 and a proximal portion extending from the proximal end 28 of the stem 16 to the cap 14. The proximal portion has a plurality of coarse annular ridges 34 thereon to form a textured engagement for mating with an installation tool. The distal portion has a plurality of rectangular shaped annular ridges 32 for engaging fingers

54 protruding from the cap 14. Thus, the cap 14 engages the stem 16 by a ratchet-type connection through interconnection of the ridges 34 on the stem 16 and the fingers 54 protruding from the cap 14. There is no disclosure, teaching, or suggestion in Herrington of a stop by mechanical deformation of the extension member. Therefore, it is respectfully submitted that independent claim 1 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 1 is respectfully requested.

Newly added claims 50-65 have been added to further clarify the invention of independent claim 1 and all ultimately depend claim 1, and thus, it is respectfully submitted that these claims are equally allowable. Allowance of claims 50-65 is therefore respectfully requested.

Independent Claim 2

Independent claim 2 was rejected under 35 U.S.C. § 102(e) as being anticipated by Herrington. Independent claim 2, as amended, recites, *inter alia*, a cranial flap clamp comprising a first clamping member, a substantially smooth extension member extending from the first clamping member, and a second clamping member. There is no disclosure, teaching, or suggestion in Herrington of a substantially smooth extension member.

Rather, as described above, Herrington discloses a disk 12, a cap 14 and an elongated stem 16 interconnecting the disk 12 and the cap 14. The stem 16 comprises a distal portion extending from the distal end 30 of the stem 16 to the cap 14 and a proximal portion extending from the proximal end 28 of the stem 16 to the cap 14. The proximal portion has a plurality of coarse annular ridges 34 thereon to form a textured engagement for mating with an installation tool. The distal portion has a plurality of rectangular shaped annular ridges 32 for engaging fingers 54 protruding from the cap 14. Thus, the cap 14 engages the stem 16 by a ratchet-type connection through interconnection of the ridges 34 on the stem 16 and the fingers 54 protruding from the cap 14. Therefore, it is respectfully submitted that independent claim 2 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 2 is respectfully requested.

Claim 3-10 all ultimately depend from independent claim 2, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 3-10 is therefore respectfully requested.

Newly added claims 66-74 have been added to further clarify the invention of independent claim 2 and all ultimately depend claim 2, and thus, it is respectfully submitted that these claims are equally allowable. Allowance of claims 66-74 is therefore respectfully requested.

Independent Claim 11

Independent claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Herrington. Independent claim 11, as amended, recites, *inter alia*, a cranial flap clamp comprising a first clamping member, an extension member, and a second clamping member wherein at least one of the clamping members has a plurality of radial cutouts extending radially inwards from an outer circumference of the member, the radial cutouts being configured to allow the clamping member to at least partially conform to the outer surface of the bone flap and skull. There is no disclosure, teaching, or suggestion in Herrington of a clamping member having a plurality of cutouts extending radially inwards from the outer circumference of the member to permit the member to at least partially conform to the outer surface of the bone flap and skull. Rather, Herington discloses a disk 12 and a cap 14, wherein the disk 12 and cap 14 include a plurality of rectangular shaped bores 26 passing therethrough in order to reduce the overall mass of the clamp as well as to permit passage of fluid and bony ingrowth. Therefore, it is respectfully submitted that independent claim 11 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 11 is respectfully requested.

Claims 12, 13, 15, and 16 all ultimately depend from independent claim 11, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 12, 13, 15, and 16 is therefore respectfully requested.

Newly added claims 75-85 have been added to further clarify the invention of independent claim 11 and all ultimately depend claim 11, and thus, it is respectfully submitted that these claims are equally allowable. Allowance of claims 75-85 is therefore respectfully requested.

Independent Claim 27

Independent claim 27 was rejected under 35 U.S.C. § 102(e) as being anticipated by Herrington. Independent claim 27, as amended, recites, *inter alia*, a cranial flap clamp

comprising a first clamping member, an extension member, and a second clamping member wherein the portions of the first and second clamping members that abut the surfaces of the bone flap and skull are substantially smooth. There is no disclosure, teaching, or suggestion in Herrington of a clamping member having a substantially smooth surface. Rather, Herrington discloses a cap 14 having a plurality of scalloped protrusions 52 for engaging the skull. Therefore, it is respectfully submitted that independent claim 27 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 27 is respectfully requested.

Claims 29-44 all ultimately depend from independent claim 27, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 29-44 is therefore respectfully requested.

Newly added claims 86 and 87 have been added to further clarify the invention of independent claim 27 and both ultimately depend claim 27, and thus, it is respectfully submitted that these claims are equally allowable. Allowance of claims 86 and 87 is therefore respectfully requested.

Independent Claim 45

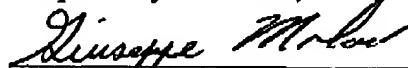
Independent claim 45 was rejected under 35 U.S.C. § 102(e) as being anticipated by Herrington. Independent claim 27, as amended, recites, *inter alia*, a cranial flap clamp comprising a first clamping member, a substantially smooth extension member extending from the first clamping member, and a second clamping member, the second clamping member having a plurality of radial cutouts extending from an outer circumference of the member; and an integrally formed stop on the extension member provided by mechanical deformation of the extension member. As previously described, there is no disclosure, teaching, or suggestion in Herrington of a substantially smooth extension member. Moreover, there is no disclosure, teaching, or suggestion in Herrington of a clamping member having a plurality of radial cutouts extending from an outer circumference of the member. Furthermore, there is no disclosure, teaching, or suggestion in Herrington of a stop member formed on the extension member by mechanical deformation of the extension member. Thus, it is respectfully submitted that independent claim 45 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 45 is respectfully requested.

Claims 46-49 all ultimately depend from independent claim 45, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 46-49 is therefore respectfully requested.

In light of the above amendments and remarks, it is respectfully submitted that claims 1-16, 27, and 29-87 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-790-6348, if a telephone call could help resolve any remaining issues.

Respectfully submitted,

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